

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PERRY O. MACKALL,

Plaintiff,

CIVIL CASE NO. 05-40115

v.

RICKY COLEMAN, et al.,

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT COURT

Defendants.

/

**ORDER ACCEPTING REPORT AND RECOMMENDATION**

This matter has come to the Court's attention through the Report and Recommendation of United States Magistrate Judge Donald A. Scheer. The Magistrate Judge has reviewed Plaintiff's prisoner civil rights complaint, brought pursuant to 42 U.S.C. § 1983, and is persuaded that Plaintiff has not met the requirements of 28 U.S.C. § 1915(g) so as to avoid the statute's "three strikes" provision. Therefore, he recommends that Plaintiff's complaint be dismissed, Plaintiff's *in forma pauperis* status be revoked, and that Plaintiff not be permitted to proceed in this Court under *in forma pauperis* status again, according to 28 U.S.C. § 1915(b). The Magistrate Judge served the Report and Recommendation on all parties on November 29, 2005 and notified the parties that any objections must be filed within ten days of service. Accordingly, any objections should have been filed by December 16, 2005. Neither party filed objections to the Report and Recommendation.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v.*

*Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

**ACCORDINGLY, IT IS HEREBY ORDERED** that the Report and Recommendation [docket entry 13] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

**IT IS FURTHER ORDERED** that this action, no. 05-40115, is **DISMISSED**.

**IT IS FURTHER ORDERED** that Plaintiff’s *in forma pauperis* status is revoked and Plaintiff is not allowed to proceed in this Court under such status according to 28 U.S.C. § 1915(b).

If Plaintiff wishes to pursue the allegations contained in his complaint, Plaintiff may pay the \$225.00 filing fee, less the initial partial payment and any other amounts paid to the Court for this case, within 30 days. Upon receipt of the full filing fee, the Court will reopen the case for the appropriate review.

**SO ORDERED.**

Dated: January 31, 2006

s/Paul V. Gadola

---

HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on January 31, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Ronald W. Chapman; Kimberley A. Koester, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Perry MacKall.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager  
(810) 341-7845